UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

In Re:

CHARLES BEEN, individually and
doing business as Creekside Farm,
Inc.; DONALD FROST; EDWIN
JOHNSTON; BOB FIELDS,
individually and d/b/a Okie Blue Sky
Farm, Inc.; GENE BLACKWELL,

       Petitioners.

No. 07-7103
(D.C. No. 02-CV-00285-RAW)

ORDER
Filed December 12, 2007

Before **MURPHY**, **O'BRIEN**, and **GORSUCH**, Circuit Judges.

Petitioners seek a writ of mandamus requiring the Honorable Ronald A.

White of the United States District Court for the Eastern District of Oklahoma to

recuse from their pending class action lawsuit. Petitioners filed a motion to

recuse with Judge White, which he denied. Mandamus is an appropriate vehicle

to challenge the denial of a motion to recuse. *Nichols v. Alley*, 71 F.3d 347, 350

(10th Cir. 1995). On appeal, a district court's denial of a motion to recuse is

reviewed for an abuse of discretion, but on mandamus, a petitioner "must

demonstrate a clear abuse of discretion, or conduct by the district court amounting

to a usurpation of judicial authority." *Id*. "Mandamus is available only upon a showing of a clear and indisputable right to relief." *Id*.

Petitioners argue that Judge White abused his discretion in denying their motion to recuse. They contend that the simple existence of Judge White's dating relationship with an associate in the law firm representing defendants requires his recusal, even though the associate is not a party to the proceeding; is not acting as a lawyer in the proceeding; has not been involved in the case in any way; has no interest in the outcome of the proceeding; and is not a witness in the proceeding. They assert also that this relationship, in combination with Judge White's adverse ruling on summary judgment, leads to an appearance of impartiality.

We conclude that petitioners have not met their burden of demonstrating their entitlement to mandamus relief. Accordingly, the petition for a writ of mandamus is DENIED.

Entered for the Court,

ELISABETH A. SHUMAKER, Clerk